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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional): <b>2002-051/PU03 0238US1</b>	
I hereby certify that this correspondence is being electronically filed.  Date: <b>April 6, 2009</b>  Signature: 		Application Number: <b>10/783,586</b>	Filed: <b>February 20, 2004</b>
Typed or printed name: <b>KATHLEEN KOPPEN</b>		First Named Inventor: <b>Charles Randall Yates</b>	
		Art Unit: <b>2617</b>	Examiner: <b>MR. AMANCIO GONZALEZ</b>

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).  
Note: No more than five (5) pages may be provided.

I am the

applicant/inventor

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

(Form PTO/SB/96)

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April 6, 2009

Date



Signature

Stephen A. Herrera

Typed or Printed Name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

\*Total of \_\_\_\_\_ form(s) is/are submitted.

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.<sup>1</sup> Applicant's attorney or assignee designation number (optional).<sup>2</sup> Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is mandatory to obtain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
**Yates** )  
Serial No.: 10/783,586 ) PATENT PENDING  
Filed: February 20, 2004 ) Examiner: Amancio Gonzalez  
For: Method for PoC Instant Temporary Group ) Group Art Unit: 2617  
Chat Based on Presence and Location ) Confirmation No.: 7723  
Docket No: 2002-051 )

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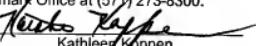
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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April 6, 2009

Date

  
Kathleen Koppen

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PRE APPEAL BRIEF

Sir:

Applicant submits the following remarks concurrently with a Notice of Appeal and a Request for Pre-Appeal Brief Review. Claims 42-68 are currently pending. Of these, claims 42, 55, and 64 are independent. Each of the independent claims stands finally rejected as being anticipated by Turcanu (U.S. Pat. App. Pub. No., 2005/0054361). However, Turcanu does not disclose every element of these claims, and thus, fails to anticipate the claims.

Claim 42 is directed to a push-to-talk (PTT) controller configured to establish a local ad hoc group session between an inviting mobile terminal and one or more other mobile terminals located within a specified local area of the inviting mobile terminal. For convenience, claim 1 appears below.

42. A push-to-talk controller in a wireless network for establishing a local ad hoc group session between an inviting mobile terminal and local mobile terminals, the push-to-talk controller comprising:

- a presence server configured to identify one or more local mobile terminals that are within a local area of an inviting mobile terminal;
- a group server configured to create an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal; and
- a push-to-talk server configured to establish the local ad hoc group session between the inviting mobile terminal and the local mobile terminals in the ad-hoc group responsive to a request from the inviting mobile terminal.

Claim 42 recites, "a presence server configured to *identify* one or more local mobile terminals that are within a local area of an inviting mobile terminal...[and]... a group server configured to create an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal." Thus, the presence server identifies the local mobile terminals for a particular purpose. That is, to allow a group server to establish an *ad hoc* communications session between the inviting mobile terminal and one or more of the identified mobile terminals.

One important difference between the claimed invention and Turcanu is that the claimed invention identifies one or more mobile terminals within a local area of the inviting mobile terminal, and then creates a group from those mobile terminals. Turcanu, in contrast, first creates a group of UTs, and then disseminates location information regarding those UTs to each member of the group. The two are not the same.

More particularly, Turcanu discloses a system and method of providing group members on a group call with summarized information. To that end, Turcanu utilizes a group server to facilitate the creation of a group, and a presence server to track and store a variety of different presence attributes regarding the User Terminals (UTs) in the group. One such optional presence attribute stored by the presence server is the geographical locations of one or more UTs as they travel through the network. E.g., *Turcanu*, p. 2, ¶¶[0022]; p. 3, ¶¶[0029]; p5. ¶¶[0046].

Importantly, however, even though the presence server in Turcanu tracks and stores the geographical locations of the UTs, that information is never used by Turcanu to identify UTs within a local area of an inviting UT so that a group server can create an ad hoc group from those identified UTs. That is, Turcanu does not teach a group server that utilizes the location information to create an *ad hoc* group of UTs. In contrast, Turcanu maintains the UT location information only so a presence server can disseminate that information with presence summary information to the UTs in a group. *Turcanu*, p. 3, ¶[0034]. The geographical location of the UTs has nothing whatsoever to do with group creation. In fact, the UTs disclosed in Turcanu must already be part of a group to receive the location information of the other UTs in the status updates. Evidence of this appears throughout Turcanu.

For example, according to Turcanu, only an authorized, subscribing UT can obtain summarized group information about the other members of the group. Such status information includes whether a group member is "busy," or "on duty," "in a meeting," "free," and the like. *Turcanu*, p. 5, ¶¶[0045-0049]. Additionally, Turcanu discloses,

[i]In order to obtain summarized group information, the UT1 according to this exemplary embodiment of the invention is configured to first authorize its presence information to the other members of the group by sending message 5-10 to the PresS. The UT1 knows the other members on the basis of the information it received in message 5-6..

*Turcanu*, p. 5, ¶[0045] (emphasis added). Thus, the UTs are already members of a group before they receive the status updates (which may include geographical location information). And, since the UTs are already part of an existing group, there would never be a need to identify one or more of them for inclusion in an ad hoc group communication session by a group server.

Simply put, the group server in Turcanu creates a group of UTs. Then, the presence server in Turcanu disseminates location information regarding the UTs to each of the other UTs in the group. The presence server does not identify one or more UTs in a local area of an

inviting UT so that the group server can use them to create a group. Turcanu therefore does not teach each element of claim 42, and thus, cannot anticipate claim 42 or any of its dependent claims.

The other independent claims 55 and 64 also stand rejected as being anticipated by Turcanu for the same reasons as those stated for claim 42. Claim 55 is directed to a method of establishing a local ad hoc group session in a wireless network between an inviting mobile terminal and one or more local mobile terminals.

55. A method of establishing a local ad hoc group session in a wireless network between an inviting mobile terminal and one or more local mobile terminals, the method comprising:

- receiving a request to initiate a local ad hoc group session from an inviting mobile terminal;
- identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal;
- creating an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal; and
- establishing the local ad hoc group session between the inviting mobile terminal and the local mobile terminals in the ad-hoc group.

Claim 64 is directed to a push-to-talk controller in a wireless network that establishes a push-to-talk communication session for a local ad hoc group comprising an inviting mobile terminal and local mobile terminals.

64. A push-to-talk controller in a wireless network for establishing a push-to-talk communication session for a local ad hoc group comprising an inviting mobile terminal and local mobile terminals, the push-to-talk controller comprising:

- a presence server configured to identify one or more local mobile terminals that are within a local area of an inviting mobile terminal;
- a group server configured to create an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal that are identified as being capable of communicating a specified media type; and
- a push-to-talk server configured to establish the local ad hoc group session between the inviting mobile terminal and the local mobile terminals in the ad-hoc group responsive to a request from the inviting mobile terminal.

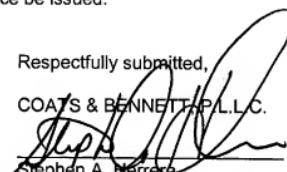
Both claims 55 and 64 contain language similar to claim 42, and thus, Turcanu does not anticipate either of claims 55 and 64, or any of their respective dependent claims, for reasons similar to those stated above.

Finally, the Office Action indicates that dependent claims 48 and 60 are rendered obvious over Turcanu in view of Winchell (U.S. Pat. App. Pub. No. 2002/0151321). However, since their respective independent claims are patentable over the cited art, so, too, are claims 48 and 60. Additionally, Winchell does not remedy the deficiencies of Turcanu. Therefore, claims 48 and 60 are non-obvious over the cited references.

In light of the foregoing remarks, Applicant respectfully requests that the Panel overturn all rejections, and that a Notice of Allowance be issued.

Respectfully submitted,

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Dated: April 6, 2009

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